

1 February 1952

MEMO FOR THE RECORD

Subject: Effect of Supplemental Appropriation Act of 1952
(Public Law 253) on CIA Appointive Authority

STATINTL

The effect of the second Whitten Amendment (contained in P. L. 253) upon CIA authority to make permanent appointments was discussed this date with [REDACTED] of the General Counsel's Office. Section 1310 (a) of P. L. 253 provides that the CSC and heads of the executive agencies shall make full use of their authority to require that initial appointments in the competitive and noncompetitive service shall be made on a temporary or indefinite basis and that all reinstatements and promotions in the Federal Civil Service shall be made on a temporary or indefinite basis.

STATINTL

[REDACTED] stated that there is controversy whether the Whitten Amendment means (1) that only temporary appointments can be made, or (2) that temporary appointments must be made except in those cases where permanent appointments can be provided under authority of EO 10180. He expressed the opinion that if a complete prohibition on permanent appointments had been intended more definite language could have been used. He pointed out that GAO has not ruled that the permanent appointive authority in EO 10180 is nullified by P. L. 253 and that the CSC is of the opinion that EO 10180 is still applicable.

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[REDACTED] stated that Agency authority to make permanent reinstatements and promotions is less clear, since P. L. 253 states positively that promotions and reinstatements shall be made on a temporary basis. He advised, however, that a logical case could be made by the Agency to the effect that authority to make permanent promotions is as essential as authority to make permanent appointments in maintaining a career service and in carrying out Agency responsibilities.

STATINTL

[REDACTED] foresees no obstructions to Agency operations in Section 1310 (d) of P. L. 253, which requires periodic reviews of positions and periodic reports to Congress. He indicated that the Agency now reviews positions within the requirements of the Section. He gave assurance that compliance with the requirement of periodic reports is unnecessary, since such reporting might abridge security requirements.

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STATOTHR The basis of CIA appointive authority was discussed. [REDACTED] does not believe that the Agency is dependent upon the Schedule A authority contained in CSC Regulation 21-229, although this authority is being cited by the Agency in executing personnel actions. [REDACTED]

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[REDACTED] concluded that despite the apparent authority of the Agency to make permanent appointments both the General Counsel's Office and the Personnel Office should follow closely any developments in Congress or elsewhere which might alter this capacity. He stressed the advisability of close coordination between the two offices in order that positions can be taken in Congress, when necessary, in time to protect Agency interests.

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